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THE INTERNET

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September 26, 2006

The Honorable John C. Dugan  
Comptroller of the Currency  
Washington, D.C. 20219

Dear Comptroller Dugan:

Recent revelations regarding Hewlett-Packard's use of private detective firms to illicitly obtain telephone records and other confidential personal data regarding members of its Board and several reports have highlighted the fact that many of America's most respected corporations may be hiring Internet data brokers or private detective agencies to obtain information for them using illegal pretexting. I am writing you today to express my concern about the possibility that national banks subject to the oversight of the Office of the Comptroller of the Currency (OCC), may be among the customers of such firms and therefore may be the cause, knowingly or otherwise, of widespread illegal practices used to obtain personal customer information..

For example, it has come to my attention that information submitted to the House Energy and Commerce Committee in connection with the Oversight and Investigations Subcommittee's June 21, 2006 hearing on Internet data brokers and pretexting identified a number of financial institutions as being among the largest clients of one such data broker, the Global Information Group of Lighthouse Florida. According to information provided to the Committee by the Global Information Group, the clients of the firm included

- Wachovia Bank (WFS, the auto division),
- Wells Fargo Financial,
- Chase Bank (auto division),
- Citigroup (Arcadia Financial and Auto One divisions),
- Bank One Real Estate,
- Ford Motor Credit,
- HBSC.

During the Subcommittee's hearing, Ms. Laurie Misner of Global Financial invoked her Constitutional Rights under the Fifth Amendment and declined to testify. It is therefore not clear what services the firm provided to its financial services sector clients and whether or not these services included acquisition of confidential telephone records or other personal information using illegal pretexting. However, Global Financial's marketing materials described the company as "a leading provider of skip tracing services, asset recovery and information research" and stated that "serves principally financial institutions, providing them with information necessary for recovery of lost assets from delinquent debtors."

Testimony submitted to the Subcommittee in connection with its June 22, 2006 hearing indicated that on April 12, 2006, the Attorney General of the State of Florida obtained a Consent

Judgement and Permanent Injunction against the Global Financial Group and its principal officers, including imposition of monetary penalties of \$250,000 and potential penalties of \$2.5 million, as well as a requirement that the firm cease all operations and close down.

I call this information to your attention because it raises important questions regarding the OCC's responsibility to identify what nonpublic customer information the national banks under its jurisdiction may have obtained from Global Financial Group, and whether any of this information was obtained as a result of the type of illegal actions that gave rise to the Florida Attorney General's lawsuit against Global Financial. I would also like to know what actions, if any, the OCC has taken to ensure that national banks not do business with other Internet data brokers or private detective firms who may use pretexting in order to obtain telephone records or other personal information.

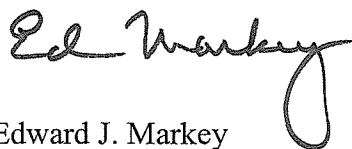
I note that on April 30, 2001, the OCC issued an Advisory Letter on "Identity Theft and Pretext Calling" (AL 2001-4) that noted that "safe and sound banking practices dictate that a bank exercises reasonable diligence in selecting a third party to gather customer information." The OCC Advisory Letter warned that:

"In this regard, banks should familiarize themselves with the methods used by third parties to collect customer information on their behalf. Banks should not use the services of anyone the bank suspects may be engaging in pretexting to obtain customer information."

In light of the statements made by the OCC in the aforementioned Advisory Letter regarding the obligations of national banks, I would like to know what action, if any, the OCC has taken to ascertain whether or not any of Global Financial's bank customers did, in fact, exercise "reasonable diligence" in selecting Global Financial to gather customer information. I would like to know whether the OCC has taken any action to determine whether these banks had actually familiarized themselves with Global Financial's methods, and whether they had complied with the OCC's warning not to engage the services of anyone who might reasonably have been suspected of pretexting. If any of the banks subject to the OCC's jurisdiction have failed to comply with safe and sound banking practices in this area, please explain what actions, if any, the OCC has taken in response.

Thank you for your prompt attention to this matter. Should you have any questions about this request, please have your staff contact Mr. Jeffrey Duncan of my staff at 202-225-2836.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Markey", with a large, stylized loop at the end.

Edward J. Markey  
Ranking Democratic Member  
Subcommittee on Telecommunications  
and the Internet